

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

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|--------------------------|---|---------------------------------|
| UNITED STATES OF AMERICA | § | |
| | § | |
| VS. | § | CRIMINAL ACTION NO. 2:13-CR-509 |
| | § | |
| BOB JAMES KUBALA | § | |

**ORDER DENYING DEFENDANT’S OPPOSED
MOTION TO REVOKE DETENTION ORDER**

Pending is the defendant’s Opposed Motion to Revoke Detention Order. (D.E. 38). For the reasons stated on the record and as summarized below, the defendant’s motion is **DENIED.**

On June 13, 2013, the defendant was arrested after having been charged in a three-count indictment with knowingly possessing child pornography. (D.E. 1). The Court set bond and the defendant was released from custody on June 18, 2013, on conditions of release including a \$35,000 bond, \$1,500 cash deposit, electronic monitoring, home detention and other conditions. The defendant had difficulty complying with the conditions of his release which primarily involved several instances of his noncompliance with the home detention condition. After being warned by his Pretrial Services Officer several times, the defendant continued to violate the conditions of his bond. (D.E. 24, 25). On December 31, 2013, the defendant left his residence in violation of the home detention condition after having his request denied by his Pretrial Services Officer. (D.E. 25). The defendant’s explanation for leaving the residence to search for his missing

daughter was contradicted by the defendant's relatives who indicated the defendant had wanted to see his daughter before she went out for a New Year's Eve party. The explanation provided by the defendant's relatives is more credible and probable than the defendant's version of the events. Further, even the defendant's version of events establishes a willful violation and poor judgment because the defendant could have located his daughter with a telephone call.

On January 7, 2014, U.S. Pretrial Services Officer Arturo Sanchez filed a petition seeking a warrant for defendant based his persistent noncompliance with the conditions of his release. The defendant was arrested and on January 31, 2014, the Court held a hearing on whether the defendant's bond should be revoked. The defendant did not contest the violations but presented argument requesting the defendant be allowed to remain on bond. The undersigned found that the defendant had violated the conditions of release and revoked the defendant's bond.

The defendant filed an opposed motion for the Court to reconsider the detention order (D.E. 30, 34) and the Court denied the motion on February 5, 2014, finding that that the defendant violated the conditions of his release and that he is unlikely to abide by conditions of release if re-released. (D.E. 35).

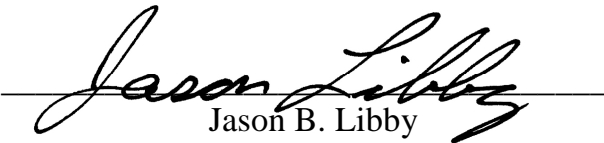
On April 17, 2014, the defendant filed another motion to revoke the detention order. (D.E. 38). While the motion was referred to the undersigned, it is unclear whether the defendant sought to have the decision of the Magistrate Judge reviewed by the

District Judge.¹ On May 12, 2014, a hearing was held on the defendant's opposed motion to revoke the detention order. The defendant testified and offered an explanation why he knowingly violated the home detention program rules. The defendant did not offer any evidence or testimony that was materially different or additional to the matters previously considered by the undersigned.

The defendant has a history of noncompliance with the conditions of pretrial release and the defendant's persistent and willful violations of the conditions establish that the defendant is either unwilling or incapable of complying with court ordered conditions of release and that if released again, it is unlikely that the defendant will comply with conditions of release. *See* 18 U.S.C. § 3148(b).

Therefore, the defendant's Opposed Motion to Revoke Detention Order (D.E. 38) is **DENIED**.

ORDERED this 13th day of May, 2014.


Jason B. Libby
United States Magistrate Judge

¹ Counsel for defendant was advised that if he seeks a review of the undersigned Magistrate Judge's decision by the District Judge, he should file a motion indicating he is seeking review of the Magistrate Judge's decision by the District Judge and should order the transcripts of the proceedings for the District Judge's consideration.